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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,179	02/15/2002	Pierre Rosenzweig	SANSYL007	1648

27546 7590 05/21/2003

SANOFI-SYNTHELABO INC.  
9 GREAT VALLEY PARKWAY  
P.O. BOX 3026  
MALVERN, PA 19355

EXAMINER
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JONES, DWAYNE C

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/069,179

Applicant(s)

ROSENZWEIG, PIERRE

Examiner

Dwayne C Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 1-11 and 13-23 are pending.
2. Claims 1-11 and 13-23 are rejected.

### ***Information Disclosure Statement***

3. The information disclosure statement filed on February 15, 2002 has been reviewed and considered, see enclosed copy of PTO FORM 1449.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### ***Arrangement of the Specification***

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) **CROSS-REFERENCE TO RELATED APPLICATIONS.**
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.

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(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 7, 8, 13, 19 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wurtman et al. of U.S. Patent No. 4,999,382. Wurtman et al. teach of compositions and methods of utilizing serotonergic and anorectic drugs to decrease weight gain as well as lower consumption of high-carbohydrate foods, (see column 3, lines 47-57). Wurtman et al. also teach that in lieu of or in addition to, "d-fenfluramine, d,l-fenfluramine and fluoxetine, other drugs which have the effect of enhancing serotonin-mediated neurotransmission can be administered . . . e.g., moclobemide . . . brofaromine", (see column 4, lines 3-6 and lines 34-38).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-11 and 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wurtman et al. of U.S. Patent No. 4,999,382 in view of the Benedetti et al. Wurtman et al. teach of compositions and methods of utilizing serotonergic and anorectic drugs to decrease weight gain as well as lower consumption of high-carbohydrate foods, (see column 3, lines 47-57). Wurtman et al. also teach that in lieu of or in addition to, "d-fenfluramine, d,l-fenfluramine and fluoxetine, other drugs which have the effect of enhancing serotonin-mediated neurotransmission can be administered . . . e.g., moclobemide . . . brofaromine", (see column 4, lines 3-6 and lines 34-38). The prior art reference of Benedetti et al. teach provides and lists various inhibitors of MAO, inter alia, tolxatone, brofaromine, and moclobemide, (see page 98, 1st paragraph and pages 101-103) as well as milacemide, (pages 74-76). In addition,

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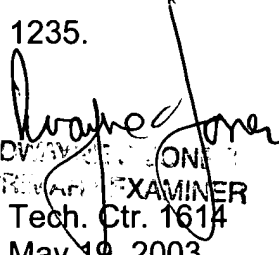
Benedetti et al. teach that inhibitors of MAO are known to be effective in the treatment of eating disorders, (see pages 90 and 91). Since Wurtman et al. teach that compounds of utilizing serotonergic and anorectic drugs to decrease weight gain as well as lower consumption of high-carbohydrate foods, it would have been obvious to one having ordinary skill in the art utilize other compounds that simply possess the pharmacologically property of serotonergic and anorectic drugs, such as tolaxatone, brofaromine, and moclobemide, and milacemide, etc. The determination of a dosage having the optimum therapeutic index is well within the level of the one having ordinary skill in the art, and the artisan would be motivated to determine optimum amounts to get the maximum effect of the drug. Moreover, it would have been obvious to the skilled artisan to employ the use of various and sundry compounds that possess the pharmacological properties as serotonergic drugs and anorectic drugs decreasing weight gain as well as lower consumption of high-carbohydrate foods, as specifically disclosed by Wurtman et al. Consequently, one having ordinary skill in the art would have been motivated to utilize any compounds that possess the pharmacological properties as serotonergic drugs and anorectic drugs for the treatment of obesity and as well as the decreasing the body weight of an individual.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. C. Jones whose telephone number is (703) 308-4634. The examiner can normally be reached on Mondays through Fridays from 8:30 am to 6:00 pm. The examiner can also be reached on alternate Mondays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
WAYNE JONES  
PRIMARY EXAMINER  
Tech. Ctr. 1614  
May 19, 2003